

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GALE ROBERTS,

Plaintiff,

v.

No. 18-cv-00975-WJ-LF

GENERATION NEXT, LLC, RICHARD COOK,
Estate of, KATHARINE COOK FISHMAN, PAUL
MATTHEW CASTER, ANTIQUITY ENCOUNTER,
JOHN MELANCON, EXPEDITION RESOURCES, LLC,
EXPLORATION OPES, LLC, DONALD PATTERSON,
GERALD KEMLAR, HOWARD TALKS, WILLIAM FLOTO,
JOHN AND JANE DOES,

Defendants.

MEMORANDUM OPINION AND ORDER
DENYING DEFENDANT MELANCON'S [SECOND] MOTION TO DISMISS

THIS MATTER comes before the Court upon Defendant Melancon's Motion to Dismiss, filed April 23, 2019 (**Doc. 61**). This lawsuit is about a hunt for buried treasure on Black Mesa, a hill area located northwest of Espanola, New Mexico where some believe that several large caches of gold treasure and antiquities are hidden. Plaintiff is a resident of Wyoming who conducted business in New Mexico, Texas and Florida, and claims that he contractually agreed with Defendants Melancon, Patterson,

Defendant Melancon filed a previous motion to dismiss, and the Court granted the motion with regard to all of Plaintiff's claims on grounds of untimeliness, except for Plaintiff's claims that are based on alleged breach of the Joint Venture agreement. *See* Doc. 53 at 5. In this motion, Defendant Melancon (who proceeds *pro se* in this case) returns with an additional argument which the Court loosely construes as a jurisdictional challenge. Defendant contends that Plaintiff should

have filed this lawsuit in Florida, based on language in the Joint Venture stating that the agreement would be “conducted and operated pursuant to the Uniform Partnership Act of the State of Florida. . . .” See Doc. 3 at 54.¹

The Court has already addressed and rejected this same argument raised by the Expedition Defendants. Doc. 62 at 12-15. The Court sees no reason to reiterate the analysis here and finds, for the same reasons given in the Court’s previous decision, that:

(1) the choice of law provision contained in the Joint Venture agreement does not dictate what *state* in which a lawsuit must be filed, and that based on the information in the complaint, this Court has subject matter jurisdiction over this case based on diversity. Defendants are citizens of different states, and the amount-in-controversy is likely well over the required \$75,000.00, given that the lawsuit is a dispute over buried gold treasure. Doc. 53 at 14.

(2) the Court also has personal jurisdiction over Defendant Melancon. As the Court previously noted, Defendants “would be hard-pressed to argue that this Court lacks personal jurisdiction over them” given that they were present in New Mexico over the course of several months allegedly digging for gold treasure. Doc. 62 at 15.

Accordingly, the Court rejects Defendant Melancon’s jurisdictional challenges for those reasons, and Defendant’s motion is denied.

IT IS SO ORDERED.



CHIEF UNITED STATES DISTRICT JUDGE

¹ A more detailed description of the facts and chronology of events is included in the Court’s Memorandum Opinion and Order granting Defendant Cook’s Motion to Dismiss. See Doc. 54 at 2-6.